

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ZIPWALL, LLC,

Plaintiff

v.

C & S MANUFACTURING INC.,

Defendant.

Civil Action No.: 04-CV-10079 (REK)

FINAL JUDGMENT

THIS MATTER comes before the Court upon a motion of Plaintiff ZipWall, LLC (“ZipWall”), requesting that a final judgment, as to the matters set forth below, be entered as follows.

THIS COURT ADJUDGES AND DECREES AS FOLLOWS:

1. This action arises under the patent laws of the United States, Title 35 of the United States Code, the Trademark Laws of the United States, Title 15, Section 1051 et seq. of the United States Code, and the common law.
2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
3. Venue is proper before this Court.
4. Plaintiff (“ZipWall”) is the owner of United States Patent No. 6,209,615 (the “‘615 patent”), issued on April 3, 2001, and has the right to sue on the ‘615 patent.
5. The ‘615 patent is valid and enforceable.
6. Defendant has infringed the ‘615 patent by using, offering for sale and selling its SNAPWALL product (the “Goods”) within the United States.

7. Defendant's infringement of the '615 patent is and has been willful.
8. ZipWall is the owner of United States Trademark Registration No. 2,296,378 (the "378 registration") for the mark ZIPWALL, as well as common law rights in that mark ("Trademark Rights").
9. The '378 registration is valid and in force.
10. Defendant has infringed ZipWall's Trademark Rights by using SNAPWALL on the same goods, sold to the same customers, which is confusingly similar and represents an effort to trade on the goodwill developed by ZipWall.
11. Defendant's infringement of ZipWall's Trademark Rights has been willful.
12. Defendant's use of a nearly identical or confusingly similar trademark and other efforts to associate itself with ZipWall and/or trade on the goodwill of ZipWall constitutes unfair competition in violation of the Lanham Act and the common law.

FURTHER PROVISIONS:

1. Defendant is permanently enjoined from further acts of direct and indirect infringement of the '615 patent, including importing, making, using, selling, or offering for sale the Goods in or into the United States and is ordered to destroy any and all existing Goods.
2. Defendant is permanently enjoined from further acts of infringement of ZipWall's Trademark Rights, including selling temporary partition products under the mark SNAPWALL or any colorable imitation or variation thereof and is ordered to destroy any and all marketing materials and other documents and things, including electronic versions, bearing the mark SNAPWALL or any colorable imitation or variation thereof.
3. The parties and their officers, agents, servants, and employees, and all those in active concert or participation with any of them who receive actual notice of this order by

personal service or otherwise, as well as all successors and assigns of the parties, are bound thereby.

4. ZipWall is awarded reasonable attorneys' fees in the amount of \$25,000.
5. Violation of the within Judgment is enforceable under the applicable contempt power of this Court.
6. This Court shall retain jurisdiction over the subject matter and parties to enforce this Judgment.

IT IS SO ORDERED AND DECREED THIS 3rd DAY OF August, 2004.

Robert E. Keenan
Senior United States District Judge